
LEADERSHIP *in a* TIME *of* CHANGE

Virginia Housing
Study Commission

1996 ANNUAL REPORT

*to the Governor and
General Assembly of Virginia*

VIRGINIA HOUSING STUDY COMMISSION

GENERAL ASSEMBLY OF VIRGINIA

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DELEGATE ALAN A. DIAMONSTEIN,
COMMISSION CHAIRMAN

INTRODUCTION

BACKGROUND

Established by the 1970 Virginia General Assembly, the Virginia Housing Study Commission was originally mandated "to study the ways and means best designed to utilize existing resources and to develop facilities that will provide the Commonwealth's growing population with adequate housing." The Commission was further directed to determine if Virginia laws "are adequate to meet the present and future needs of all income levels" in Virginia, and to recommend appropriate legislation to ensure that such needs are met.

The Commission is comprised of eleven members, including five members of the Virginia House of Delegates, three members of the Virginia State Senate, and three gubernatorial appointees. Delegate Alan A. Diamonstein of Newport News has served as the Commission's Chairman since soon after its establishment.

The Commission has long been recognized as a forum for new ideas in Virginia housing and as a focal point for developing consensus for such ideas. Nationally, the Commission is the only such entity that works closely with the public and private sectors and nonprofit organizations to develop workable solutions to housing problems, and advocates within state government for their implementation.

1971-1987

From 1971 throughout the early 1980s, the Commission introduced numerous legislation initiatives, subsequently passed by the Virginia General Assembly, to further its goal of ensuring safe, decent affordable housing for every Virginian. Commission accomplishments during that time period include:

- establishment of a state office of housing, now the Virginia Department of Housing and Community Development
- establishment of the Virginia Housing Development Authority
- passage of the Uniform Statewide Building Code, and establishment of the State Technical Review Board and local boards of building appeals
- passage of the Virginia Residential Landlord and Tenant Act
- passage of the Virginia Mobile Home Lot Rental Act
- promulgation of design standards to ensure accessibility by disabled persons to public buildings
- passage of numerous legislative initiatives to foster effective operation, management, and creativity of Virginia redevelopment and housing authorities
- passage of the Virginia Condominium Act
- passage of the Virginia Real Estate Cooperative Act
- passage of the Virginia Timeshare Act
- passage of legislation coordinating fire safety programs in Virginia.

1987-PRESENT

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Following a period of dormancy, the Housing Study Commission was reactivated in 1987. That year, the Commission proposed the creation and capitalization of the landmark Virginia Housing Partnership Fund. In 1988, at the Commission's recommendation, the General Assembly established the Fund and increased state allocations for housing programs from \$400,000 to \$47.5 million for the 1989-90 biennium. Other successful 1987-88 recommendations include the establishment of a Virginia income tax voluntary contribution program for housing programs, the Virginia Housing Foundation (now the Virginia Community Development Corporation), and the annual Governor's Conference on Housing.

Commission recommendations embraced by the 1989 General Assembly include: a state low-income housing tax credit program; state authorization of such flexible zoning techniques as planned unit developments, mixed unit developments, and density bonuses; and exemption of nonprofit housing organizations from tangible personal property tax on materials purchased for the development of affordable housing. In 1990, the General Assembly approved additional Commission initiatives, including: creation and capitalization of the landmark Indoor Plumbing Program; a tax credit program for landlords providing rent discounts to low-income elderly or disabled tenants; a legislative mandate that localities study affordable housing in preparing their comprehensive plans; and legislation requiring localities to provide for the placement of double-wide manufactured housing in districts zoned primarily for agricultural purposes.

Commission recommendations passed by the 1991 General Assembly include: amendments to the Virginia Fair Housing law to ensure that Virginia law is substantially equivalent to federal law; amendments to the Virginia Residential Landlord and Tenant Act reducing the exemption for single family rental housing from ten to four units held by owners of such property (and thereby ensuring that some sixty percent of such rental units in the state are covered by the Act); and establishment of a Virginia Manufactured Housing Licensing and Transaction Recovery Fund.

The 1992 General Assembly approved the following Commission recommendations: comprehensive consumer protection language in the Virginia Mobile Home Lot Rental Act; a one-time right of redemption of tenancy prior to an action for eviction or unlawful detainer; expansion of the Virginia tax credit program fostering rent discounts to low-income elderly or disabled tenants; and restoration of the Virginia Housing Partnership Fund to the Virginia General Fund Budget.

In its 1993 Session, the General Assembly approved comprehensive Commission recommendations related to the operation and management of condominium, cooperative, and property owners' associations. The Assembly also approved the Commission's landmark legislation designed to assert the responsibility of localities to consider the affordable housing needs of a more broadly defined community, as well as its recommendations to extend the innovative state tax check-off for housing and rent reduction tax credit programs.

In 1994, the General Assembly approved these Commission recommendations in the area of homeless prevention: banning self-help evictions in the case of all residential leases, and allocating additional funding for the Virginia Homeless Intervention Program, originally a Commission initiative, to ensure service to additional households needing temporary assistance to prevent homelessness.

In the area of blighted housing, the Assembly approved Commission recommendations which authorize localities to: acquire and rehabilitate or clear individual properties which constitute "spot blight" in a community; require the issuance of certificates of compliance with current building regulations after inspections of residential buildings, located in conservation and rehabilitation districts, where rental tenancy changes or rental property is sold; and control the growth of grass and weeds on vacant property as well as property on which buildings are located.

The 1994 General Assembly also approved the following Commission recommendations: authorization for all Virginia localities to develop affordable dwelling unit (ADU) ordinances; authorization for VHDA to enter into such alternative bond financing methods as "swap agreements" whereby VHDA may issue adjustable rate mortgage loans; and legislation to ensure efficient and effective administration of the Manufactured Housing Licensing and Transaction Recovery Fund Law.

In its 1995 Session, the General Assembly approved two Commission recommendations relating to landlord-tenant law in Virginia. In response to requests by tenants seeking to make their neighborhoods more safe, the Commission moved to reduce to fifteen days the time period in which a landlord may initiate an eviction proceeding following service of process on a tenant who has committed a criminal or willful act not remediable and which poses a threat to the health or safety of other tenants. In response to requests to help prevent eviction-related homelessness, the Commission initiated reform of Virginia removal bonds, fostering removal of eviction actions from general district to circuit court in cases not involving nonpayment of rent.

The 1995 General Assembly also approved the Commission's comprehensive package of legislation addressing blighted and deteriorated housing, as follows.

- To address violations of the Virginia Uniform Statewide Building Code, the Commission clarified that every Virginia circuit court has jurisdiction to award injunctive relief in cases involving USBC violations. The Commission also mandated that the local building department enforce Volume II (Building Maintenance Code) of the USBC where the department finds that there may be a violation of Volume II, Section 105 (Unsafe Buildings).
- To help localities combat the growing problem of drug gang-related graffiti, the Commission also initiated legislation fostering local government removal of graffiti from public or private structures.
- To assist localities in identifying and locating owners of blighted properties, the Commission initiated legislation which provides that the name and address of the owner of real property must be included in local land book records.
- To address concerns of localities that, by paying one year of delinquent taxes, owners may effectively preclude tax sale of such property indefinitely, the Commission initiated legislation authorizing localities to enter into a lien agreement with the owner of tax-delinquent property, prior to the date of a tax sale

of such property by the locality, in which such owner agrees to pay all delinquent taxes, penalties, interest, and costs on the same.

- To foster additional local revitalization efforts, the Commission initiated legislation which authorizes localities without redevelopment and housing authorities to engage in "experiments in housing," e.g., homesteading programs.

The Commission's 1995 study agenda and subsequent 1996 legislation focused on expansive soils, building code matters, and community land trusts. Its landmark legislation on soils and related building code issues set new standards in seeking to provide localities, the homebuilding industry, and homeowners a framework for addressing problem soils found statewide.

1996 WORK PROGRAM

The Commission in 1996 focused on the following broad areas of study: composition of the Board of Housing and Community Development; dissolution of redevelopment and housing authorities; cable service to residential tenants; property owners' associations and condominium associations; preservation of affordable housing; homeless children; and several building regulatory matters. After reviewing public testimony, issue papers, and Subcommittee recommendations, the Commission reached unanimous consensus on the recommendations published in this report.

In addition to legislative and study activities, the Commission responded to hundreds of inquiries regarding housing and community development policy, finance, and regulatory issues. Its Executive Director met regularly with the boards and key staff of the Virginia field offices of the U. S. Department of Housing and Urban Development and the U. S. Department of Agriculture/Rural Development, DHCD, VHDA, the Virginia Community Development Corporation, the Virginia Interagency Action Council for the Homeless, and the Virginia Housing Coalition, as well as housing advocates, government officials, and industry representatives from across the Commonwealth. The Director also played an active role in the national housing and community development arena, serving as a member of the Board of Directors of the National Housing Conference; as Chair of the American Bar Association Forum on Affordable Housing and Community Development Law/Committee on State and Local Programs; as a presenter to the Housing Roundtable; and as a representative to the ABA Commission on Homelessness and Poverty.

One theme manifests itself throughout this report: change was the constant which characterized housing policy and programs nationally and in the Commonwealth in 1996. In its twenty-sixth year, as in previous years, the Virginia Housing Study Commission provided ongoing leadership in this time of change.

EXECUTIVE SUMMARY

House Bill 625, carried over to the 1997 General Assembly Session and sent to the Commission by the House Committee on General Laws, would as originally introduced have expanded the Board of Housing and Community Development from thirteen to seventeen members. Of the fifteen members to be appointed by the Governor, one each would have been appointed from named categories (e.g., architect, engineer, homebuilder). The Commission makes the following recommendations relating to the HCD Board:

- Repeal Chapter 53 of the 1995 Virginia Acts of Assembly mandating that the Governor appoint to the HCD Board three members "represent[ing] contractors from each of the examined specialties of plumbing, heating and cooling, and electrical . . ." and scheduled to take effect July 1, 1997.
- Amend § 36-135 of the *Code of Virginia* to provide that:
Wherever the Board of Housing and Community Development proposes a change to statewide building and fire regulations, the Board is authorized to convene an ad hoc committee, including but not limited to those industry groups directly affected by such change, to advise the Board on such matters.
- Amend § 36-108 of the *Code of Virginia* relating to the Technical Review Board to increase Board membership from twelve to fourteen and to provide that the Governor appoint to the Board, in addition to those appointees currently designated by statute and including a Class A electrical contractor, the following:
one member who is a plumbing contractor who has held a Class A license for at least ten years and one member who is a heating and cooling contractor who has held a Class A license for at least ten years, both of whom shall be selected from a slate presented by the Virginia Association of Plumbing-Heating-Cooling Contractors.

House Bill 1251, carried over to the 1997 Session and sent to the Commission by the House Committee on General Laws, would amend the *Code of Virginia* to provide for the dissolution of redevelopment and housing authorities upon petition by a local governing body to the circuit court. The Commission recommends that, given the ongoing uncertainty relating to federal housing programs in general and public housing in particular, together with the complex legal and fiscal issues relating to possible dissolution of authorities and potential negative effects relating to bond markets, it would be inappropriate at this time to embark on substantial revisions to state law relating to authorities.

House Bill 1322, carried over to the 1997 Session and sent to the Commission by the House Committee on General Laws, would strike the *Code of Virginia* provision prohibiting landlords from demanding or accepting access fees from various types of television service providers and allow landlords to negotiate access fees with cable and other service providers. Given that pending Federal Communications Commission regulations could define the state legal and regulatory climate relating to such issues, the Housing Study Commission recommends

FOLLOWING IS A BRIEF
SUMMARY OF VIRGINIA
HOUSING STUDY
COMMISSION UNANIMOUS
RECOMMENDATIONS TO
THE GOVERNOR AND THE
1997 GENERAL ASSEMBLY
OF VIRGINIA.



SENATOR STANLEY C. WALKER

awaiting relevant FCC rulings, which could come as early as January 1997, prior to legislative action on the same.

House Joint Resolution 8 requests the Commission to study the desirability and feasibility of state regulation of property owners' associations. The Commission agreed with the conclusion of a 1987 Real Estate Board study on the matter, to the effect that "legislation should not be regarded as a panacea." Rather, the Commission recommends that its subcommittee which regularly addresses community association trends and issues would be a more appropriate vehicle for addressing issues relating to property owners' associations. In addition, the Commission recommends that the provisions of the Subdivided Land Sales Act concerning association operations be incorporated into the Property Owners' Association Act, that the balance of the SLSA be repealed, and that such legislation assure that the POA Act apply to recreational land developments or other communities which are not now covered under such Act.

House Joint Resolution 161 requests the Commission to study options for developing policies and programs to preserve the current stock of low- and moderate-income housing and to utilize conventional and subsidized financing strategies for converting and creating new housing in the Commonwealth.

Based on information presented and trends identified in the course of its study, the Commission recommends the following:

- Allocate general funds to the Virginia Housing Partnership Fund multifamily loan program. No funds are provided for this program in the state budget for FY98.
- Request by legislative resolution that Congress continue the Low Income Housing Tax Credit Program. This program, which has proven to be among the most effective multifamily housing development incentives, appears again to be in danger of facing a federal sunset.
- Request that the Department of Housing and Community Development (DHCD) consider establishing a state rural rental rehabilitation program, similar to the popular but now defunct federal program of the same name, to address the need for affordable rental housing in rural areas.
- Request DHCD to address the preservation issues discussed above in the state Consolidated Plan prepared by DHCD for submission to the U.S. Department of Housing and Urban Development.
- Request by legislative resolution that the Commission and its Subcommittee on HJR 161 continue their dialogue, monitoring, and study of the issue.

House Joint Resolution 181 requests the Housing Study Commission and the Virginia Commission on Youth to study the prevalence and needs of homeless children in the Commonwealth, to identify barriers to providing services to Virginia's homeless children, and to recommend strategies for improving their lives. Of the nearly thirty Commission recommendations on the matter, following are ten priority recommendations:

- Codify the role of the Virginia Interagency Action Council for the Homeless (VIACH) to coordinate program development and delivery of essential services to the homeless.
- Establish a staff position designated to provide case management and direct services to children at every homeless and domestic violence shelter in Virginia which serves minor children.
- Request the Departments of Social Services and Juvenile Justice to assess the need for shelter beds to serve homeless unaccompanied minors.
- Provide General Fund support to homeless education programs to offset reductions in federal funds.
- Increase funding for child day care for the homeless under the Child Care Block Grant.
- Expand availability of Headstart in Virginia and reserve slots for children residing in homeless shelters.
- Amend the *Code of Virginia* relating to birth certificates and immunization requirements to facilitate the enrollment of homeless children in local schools.
- Establish a Public Health/Shelter Partnership pilot program.
- Re-establish Virginia's Rent Reduction Tax Credit Program and amend eligibility to include low-income families.
- Enact the Virginia Earned Income Tax Credit.

Senate Bill 520, which would repeal the Common Interest Community Management Information Fund, was carried over to the 1997 Session and sent to the Commission by the House Committee on General Laws. The Fund was established by the 1993 General Assembly at the recommendation of the Commission to serve as a clearinghouse for information about and for common interest ownership community associations.

Rather than repealing the Fund precipitously, the Commission agreed that it would be more appropriate to build on Fund strengths and implement strategies to address its weaknesses, real and perceived. In addition to specific outreach strategies designed to encourage compliance by associations, the Commission recommends the following statutory amendments to the Virginia *Code* to establish mechanisms for enforcement of the Fund annual report requirement:

- Amend § 55-530 relating to the Fund to require the Real Estate Board to issue to each association registered pursuant to Fund requirements a certificate of registration, which includes a unique registration number assigned by the Board, and the registration date.
- Amend § 55-79.97 relating to the Condominium Act to require an additional statement in the Certificate for Resale indicating that the unit owners' association has filed the requisite annual report and providing the association registration number and date.
- Amend § 55-512 relating to the Property Owners' Association Act to require an additional statement in the Association Disclosure Packet indicating that the association has filed the requisite annual report and providing the association registration number and date.

To serve more effectively the needs of associations, the Commission also recommends that Virginia *Code* § 55-530 relating to the Fund be amended to expand Fund uses currently codified to include "seminars and educational programs designed to address topics of concern to community associations."

Finally, to improve service to associations and their members and to continue Virginia's traditional national leadership role in the field of community association law and policy, the following strategies are recommended to foster ongoing support from legislative leaders, regulatory officials, and industry practitioners:

- Request by legislative resolution that the Real Estate Board seek information on trends and issues in community association administration and operation from regulatory officials and industry leaders.
- Request by legislative resolution that the Real Estate Board establish an advisory committee to oversee administration of the Fund to ensure that revenue proceeds are used for the benefit of community associations and their members.
- Establish a Commission standing subcommittee to address annually or biannually community association trends and issues, including proposals for legislative changes and further ways in which community associations can address the dynamic housing challenges facing the Commonwealth.

The issue of **state regulation of air conditioning in residential rental units** was placed on the Commission 1996 study agenda at the request of the Alexandria legislative delegation. More specifically, the Commission was asked to consider the desirability and feasibility of implementing state regulations relating to temperature standards, equipment maintenance, and equipment replacement programs. Noting that, typically, the Commission and the General Assembly have not legislated specific building code regulations but have instead provided for a framework for regulation, and recognizing that it is unclear whether the air conditioning regulation issue is locality-specific or statewide in its scope, the Commission agreed that any such regulations would more effectively be promulgated under the Uniform Statewide Building Code than statutorily under the Virginia Residential Landlord and Tenant Act. Accordingly, the Commission recommends that the Board of Housing and Community Development consider the desirability and feasibility of providing air conditioning standards (in addition to the existing heating standards) under Volume II (Building Maintenance Code) of the USBC as a part of the Board's current USBC revision.

HOUSE BILL 625:

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

ISSUE

The Virginia General Assembly enacted legislation during its 1995 Session (Chapter 53 of the 1995 *Acts of Assembly*) that will change the composition of the Board of Housing and Community Development ("the Board"). As codified in § 36-135 of the *Code of Virginia*, the Board is currently comprised of thirteen members. Eleven members (one representing each Congressional district in the Commonwealth) are appointed by the Governor. In addition, the Executive Director of the Virginia Housing Development Authority serves as an *ex officio* nonvoting member, and a member of the Virginia Fire Services Board is appointed by the chairman of that Board to the DHCD Board. The 1995 legislation amends § 36-135 to specify that, of the eleven Board members appointed by the Governor, three members shall "represent contractors from each of the examined specialties of plumbing, heating and cooling, and electrical, and one such member shall represent a trades inspector."

The legislation as originally passed was scheduled to take effect July 1, 1996. However, House Bill 625, amended and passed by the 1996 General Assembly, extended the effective date to July 1, 1997, and directed the Virginia Housing Study Commission to study the scheduled changes as well as those proposed in House Bill 625. Commission Chairman Alan A. Diamonstein appointed a Subcommittee, chaired by Senator Jane H. Woods and comprised of parties expressing an interest in the issue, to undertake the study directed in House Bill 625 as amended.

HCD BOARD AND TECHNICAL REVIEW BOARD

The Department and the Board of Housing and Community Development were created by legislation enacted by the 1977 General Assembly (Chapter 613 of the 1977 *Acts of Assembly*). It was the intent of the legislature by this Act to create a broad-based, citizen board appointed by the Governor to (i) provide citizen access to the Department, (ii) provide a means of publicizing the policies and programs of the Department, (iii) monitor the policies and activities of the Department, (iv) advise the Governor, Secretary and Director on matters related to housing and community development, and (v) from time to time make rules and regulations necessary to carry out its responsibilities.

The Board, historically citizen-based, is designated under § 9-6.25:2 of the Virginia *Code* as a policy board, "indicative of the fact that it is statutorily charged with promulgating public policies and regulations." As an entity whose members are drawn from the Commonwealth's general citizenry, the Board benefits from the broad representation of different interests and varied areas of experience and expertise to understand and consider the diverse needs of Virginia's citizens.



SENATOR JANE H. WOODS

In addition to the broad range of housing and community development issues it considers, the Board is responsible for developing, amending, and promulgating building regulations comprising the Uniform Statewide Building Code (USBC). The Board obtains technical advice on building and building code issues from the State Building Code Technical Review Board (TRB), which is designated by statute (*Code of Virginia* § 9-6.25:1) as an "advisory Board" and located within HCD. As set forth in *Virginia Code* § 36-108, the TRB is comprised of twelve members, each of whom is appointed by the Governor and selected from a slate presented by the appointee's respective professional association.

The TRB has three primary missions:

- to provide an administrative body to hear concerns of individuals aggrieved by the application of the building code by the local building official,
- to interpret the provisions of the USBC and other codes for local officials and the Board of Housing and Community Development, and
- to make recommendations to the Board of Housing and Community Development regarding technical issues and amendments to the USBC.

The presence of the TRB within the Department of Housing and Community Development ensures that technical expertise is available to the HCD Board in building code-related matters. The HCD Board historically has relied on the recommendations of the TRB on technical matters, and most TRB recommendations and proposals have been adopted by the HCD Board. The TRB meets monthly, and its chairman provides a quarterly report to the HCD Board in addition to other written recommendations and proposals.

1995 LEGISLATION

The above-referenced 1995 legislation would severely limit the Board's traditionally broad representation by requiring a minimum of three Board members (25 percent of the voting members of the Board) to be selected from one specific sector of the construction industry. The legislation would, for the first time, require the Governor to make appointments to the HCD Board similar to those statutorily required for the Technical Review Board, thereby effectively limiting gubernatorial discretion.

The plumbing, heating and cooling, and electrical trade associations strongly supported the passage of the 1995 legislation to provide their members increased impact on the decisions of the HCD Board. However, such contractors and their trade associations currently are provided ample opportunity for comment on all proposed Building Code changes under Board consideration. The Board routinely appoints special *ad hoc* committees comprised of representatives of parties potentially affected by a new or amended building regulation to study specific issues such as changes in the plumbing, heating, electrical, and mechanical codes.

From the standpoint of equity, concern has been expressed regarding the 1995 legislative provision requiring a relatively significant percentage of Board members to

represent a single interest group. In building code matters alone, at least 37 identified statewide trade groups have registered a desire for representation on the Board. In addition, housing groups and community organizations have also expressed an interest in Board representation.

In response to concerns that this new requirement could shift the Board's broader focus toward a more narrow focus reflecting the interests of a specific trade association, HB 625 was introduced in the 1996 Session. [During the course of that Session, the Board of Housing and Community Development unanimously voted to recommend a repeal of the 1995 legislation. At the time, the Board was comprised of appointees from the current and two previous administrations.] HB 625 as originally introduced would have expanded the Board from thirteen to seventeen members. Of the fifteen members to be appointed by the Governor, one each would be appointed from named categories (e.g., plumbing specialty contractor, architect, engineer). As amended and passed, HB 625's original provisions relating to specific Board appointments were deleted in favor of the above-referenced broad language relating to the Commission study of the Board composition.

THE BOARD BENEFITS
FROM THE BROAD
REPRESENTATION OF
DIFFERENT INTERESTS
AND VARIED AREAS OF
EXPERIENCE AND EXPERTISE
TO CONSIDER THE DIVERSE
NEEDS OF VIRGINIA'S
CITIZENS.

RECOMMENDATIONS

Following consideration and discussion of the issues the Commission unanimously adopted the recommendations of the Subcommittee, as follows:

- Repeal Chapter 53 of the 1995 *Virginia Acts of Assembly* mandating that the Governor appoint to the HCD Board three members "represent[ing] contractors from each of the examined specialties of plumbing, heating and cooling, and electrical . . ." and scheduled to take effect July 1, 1997.
- Amend § 36-135 of the *Code of Virginia* to provide that:
Wherever the Board of Housing and Community Development proposes a change to statewide building and fire regulations, the Board is authorized to convene an ad hoc committee, including but not limited to those industry groups directly affected by such change, to advise the Board on such matters.
- Amend § 36-108 of the *Code of Virginia* relating to the Technical Review Board to increase Board membership from twelve to fourteen and to provide that the Governor appoint to the Board, in addition to those appointees currently designated by statute and including a Class A electrical contractor, the following:
one member who is a plumbing contractor who has held a Class A license for at least ten years and one member who is a heating and cooling contractor who has held a Class A license for at least ten years, both of whom shall be selected from a slate presented by the Virginia Association of Plumbing-Heating-Cooling Contractors.¹

¹The Commission and its Executive Director express sincere appreciation to Mr. Steven W. Calhoun, DHCD Program Manager, for his assistance in this study.



SENATOR CHARLES L. WADDELL

HOUSE BILL 1251:

DISSOLUTION OF REDEVELOPMENT AND HOUSING AUTHORITIES

BACKGROUND

House Bill 1251 would amend § 36-4.2 of the *Code of Virginia* to provide for the dissolution of redevelopment and housing authorities ("RHAs") upon petition by a local governing body to the circuit court. The bill, introduced in the 1996 Session of the General Assembly, was carried over by the House Committee on General Laws at the recommendation of its Subcommittee and sent to the Virginia Housing Study Commission for study. Commission Chairman Alan A. Diamonstein appointed a Subcommittee comprised of nationally recognized Virginia experts in the field of local redevelopment and housing authority policy and operations to address the matter.

CURRENT VIRGINIA LAW

Virginia law regarding local redevelopment and housing authorities, as codified in Title 36 of the *Code of Virginia*, is widely considered to be model language, the envy of jurisdictions nationwide. Indeed, the national Housing and Development Law Institute recently prepared model statutes for use by RHAs; the Virginia statutes served as the model for the model. There currently exists in the Commonwealth no pending RHA dissolution, and, hence, no specific situation-based need for a dissolution provision to be included in the RHA statutes.

On its face, the proposed legislation simply adds a "sunset" provision to Title 36, mirroring similar provisions found elsewhere in the Virginia *Code*. However, while there are instances where the General Assembly has seen fit to limit the effective term of certain laws, there are also many cases in which such provision has been specifically excluded. The exclusion of sunset provisions is, in fact, a practical consideration for laws that address the need for long-term financial obligations. For example, the sections of Title 36 that empower the Virginia Housing Development Authority specifically exclude sunset provisions. Powers provided to RHAs have similar characteristics.

HB 1251 ASSUMPTIONS

The provisions of HB 1251 are predicated on a determination by a local governing body that the need for a redevelopment and housing authority "... no longer exists." However, Title 36 currently limits the powers of local authorities to address documented needs in the community. Further, it requires approval of the local governing body prior to an authority exercising its limited powers. To the extent that certain community needs do, in fact, "no longer exist," the powers of an authority are commensurately reduced; an authority cannot address needs that do not exist. Local control of RHAs clearly rests with the local governing body.

POTENTIAL CONSEQUENCES OF RHA DISSOLUTION

Section 36-4.2 — which addresses the occasional need to exclude one or more localities that have been participants in a regional RHA — recognizes the far-reaching implications of such structural alteration, particularly where there is outstanding debt. The statute provides that, where such action is deemed necessary or desirable, it must first be agreed to by all participating jurisdictions. Following such agreement, if the authority has any outstanding bonds, notes, or other evidences of indebtedness, it must obtain written consent from all holders of such evidences before any modifying action can be taken.

A pragmatic application of existing provisions is evidenced by the way in which the cities of Hampton and Newport News responded to reduced need for a regional authority. By agreement of both governing bodies, the activities of the authority were suspended and its assets and liabilities divided. The authority itself remained intact, pending a possible recurrence of need. The dissolution of the authority in order to effect an outcome that was otherwise available was considered to be neither necessary nor prudent.

The complexity involved in modifying an authority that will continue to exist and conduct business would significantly increase if an authority were to be dissolved. Notwithstanding a possible determination that there is no longer a need for new activity, virtually all existing RHAs have incurred long-term indebtedness through the sale of bonds to thousands of investors. The legal and logistical complications resulting from the dissolution of such an authority with outstanding obligations would likely be manifested in several ways.

- Most RHAs have 40-year annual contribution contracts (ACCs) with the U. S. Department of Housing and Urban Development (HUD), which contracts impose restrictions on the use of federally funded properties. Currently, only public housing authorities have the requisite powers to own and operate public housing. In the event of an RHA dissolution, it would be necessary to define another entity that could assume such obligations and responsibilities.
- Most RHAs have incurred debt through long-term bond financing of projects, and investor consent would be required for a dissolution. Related issues include but are not limited to: What other entity has the specific powers needed to assume outstanding indebtedness? If the debt cannot be assigned, is bond defeasance required? If defeasance is required, what is the cost and who will pay it?
- In addition to ACCs, conditions relating to income and operating procedures are attached to housing financed and/or owned by authorities. Such conditions cannot be unilaterally dissolved, and there exists no clear procedure for liquidating RHA assets and satisfying bond and note holders.
- Even if the provisions of HB 1251 were never applied, the specter of dissolution resulting from a short-term potentially politicized decision would almost certainly create uncertainty in bond markets with a resulting negative effect on all RHAs.

RECOMMENDATION

In addition to discussing the specific technical issues relating to HB 1251 and RHA dissolutions outlined above, the Subcommittee noted the ongoing uncertainty vis-a-vis HUD and federal housing programs. Members pointed to current efforts by both the administration and Congress to restructure substantially federal housing policy and programs. Accordingly, the Commission unanimously agreed to the unanimous recommendations of the Subcommittee that, given the above-stated issues and concerns, at this time it would be inappropriate and ill-advised to embark on substantial revisions to state law relating to redevelopment and housing authorities.

HOUSE BILL 1322:

CABLE SERVICE TO RESIDENTIAL TENANTS

Since 1982, a provision of the Virginia Residential Landlord and Tenant Act has prohibited landlords from demanding or accepting access fees from various types of television service providers. Two 1996 bills proposed amendments to § 55-248.13:2 of the *Code of Virginia* that contains this provision. House Bill 920 proposed extending the prohibition to include several additional wired or wireless video or communication services. House Bill 1322 proposed striking the prohibition and allowing landlords to negotiate access fees with cable and other television service providers.

The House Committee on General Laws unanimously voted to kill HB 920 and continue HB 1320 until the 1997 Session. The Committee also requested that the Virginia Housing Study Commission study HB 1322 before the next Session. To assess the issues fully and assure the participation of all interested parties, Commission Chairman Alan A. Diamonstein appointed a Subcommittee, including representatives of the apartment and telecommunications industries.

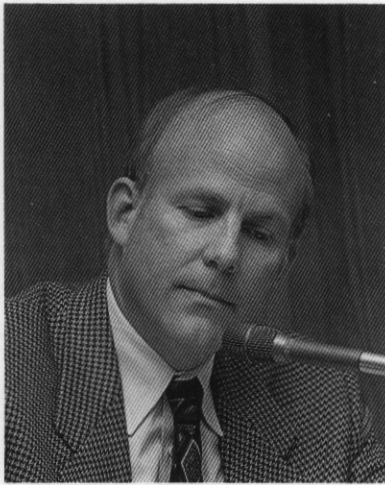
During deliberations, Subcommittee members discussed several specific issues. These included the likely effects of removing Virginia's bar on access fees, whether other states had similar statutory provisions, the intent and effect of recent federal court rulings relating to communications access, relevant past or pending decisions of the Federal Communications Commission (FCC), and the impact of the recent Telecommunications Act on competition and access.

Subcommittee members disagreed on several key points. Representatives of the apartment industry expressed concern with the profitability of rental properties and the landlord's control over the property. Representatives of cable and other telecommunications providers stressed three areas. These included expanding the access of tenants to a variety of television services, the benefits of competition to subscribers, and the convergence between television and other telecommunications media. They also emphasized a shift in the regulatory climate toward encouraging wider public access to competing services.

Subcommittee members generally concurred, however, that it may be too early to make a final recommendation on this issue. Final FCC rulings on cable access for multifamily properties could define the legal and regulatory climate. While they could preempt state laws or regulations in this area, neither the final contents of such rulings nor their possible preemptive effects were clear at the time of the meeting. Members suggested taking two steps for the present. First, await relevant rulings from the FCC, which could come as early as January 1997, to decide whether they clarify, moot, or muddy the issue for Virginia. Second, clarify the approaches other states have taken regarding the issue of tenant access to television services pending FCC decisions. Accordingly, the Commission unanimously agreed to the recommendations of the Subcommittee.²

²The Commission and its Executive Director express sincere appreciation to Dr. William J. Ernst, DHD Acting Policy Manager, for his assistance in this study.

FINAL FCC RULINGS
ON CABLE SERVICE TO
MULTIFAMILY PROPERTIES
COULD DEFINE THE LEGAL
AND REGULATORY CLIMATE
RELATING TO THE ISSUE.



DELEGATE JAMES F. ALMAND

HOUSE JOINT RESOLUTION 8: REGULATION OF PROPERTY OWNERS' ASSOCIATIONS

BACKGROUND

House Joint Resolution 8 (1996), patroned by Delegate C. Richard Cranwell, requests the Virginia Housing Study Commission to study the desirability and feasibility of state regulation of property owners' associations. Commission Chairman Delegate Alan A. Diamonstein appointed a Subcommittee, chaired by Delegate James F. Almand and including nationally recognized practitioners in the area of common interest communities, to address the issue.

Subcommittee members noted that two previous studies have focused on state regulation of property owners' associations. A 1978 study by the Real Estate Commission (now the Real Estate Board) resulted in the Subdivided Land Sales Act (SLSA). In 1983, the Real Estate Commission conducted another study on the need for further regulation or statutory foundation for property owners' associations. In addition, a 1986 study of residential planned developments pursuant to House Joint Resolution 122 (1986) was undertaken by the Secretary of Economic Development. The Virginia Board for Commerce (now the Board of Professional and Occupational Regulation) conducted the study on behalf of the Secretary.

Following testimony received in public hearings, the Board found that the concerns of land owners in residential planned developments relate to administration and regulation of the same, as well as to the enforcement of association regulations. Study recommendations echoed the governing statutory law in § 54-1.26 of the Virginia Code: "The Board [of Commerce] shall regulate only within the degree, or degrees, of regulation that it finds necessary to fulfill the need of regulation and only upon approval by the General Assembly." In turn, the Board recommended legislation (subsequently adopted) that would "address the problems [relating to planned community developments] through legislation, but not legislation which establishes a regulatory program." The Board recommended legislation that would "provide a framework for the management of residential planned community development." However, no legislation was proposed.

In 1988, legislation was introduced to address a limited number of the concerns expressed during the two studies. Although not acted upon in 1988, in 1989, the Virginia Property Owners' Association (POA) Act was enacted. The focus of this law is limited to disclosure upon the sale of a lot, special assessment authority, rule enforcement authority, and establishment of a lien for unpaid assessments.

RECOMMENDATIONS

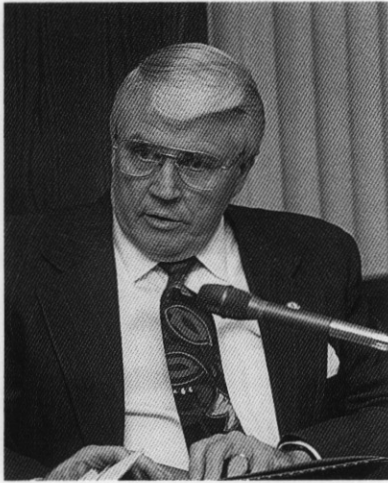
The Commission Subcommittee agreed with the conclusion of the Board's 1987 Report: "Legislation should not be regarded as a panacea." However, the Subcommittee referred to a recommendation of the 1996 Commission Subcommittee on Senate Bill 520, which recommendation was subsequently adopted by the Commission. Such recommendation calls for the establishment by the Commission Chairman of a Commission standing subcommittee to address annually or biannually community association trends and issues, including proposals for legislative changes and further ways in which community associations can address the dynamic housing challenges facing the Commonwealth. Subcommittee members agreed that such a subcommittee would be a more appropriate vehicle for addressing issues relating to property owners' associations than would additional legislation. Subcommittee members suggested the following as pertinent issues ripe for deliberation:

- building code violations in the context of the builder/ developer's control of the association Board for the duration of the statutory period governing such violations
- inadequate capital reserves accrued by associations facing potentially significant capital outlays
- education of association Board members regarding protocol and legality of Board action
- transition of control of the association from the builder/ developer to the association.

The Subcommittee also discussed legislation to repeal the Subdivided Land Sales Act (SLSA) in its entirety considered in the 1996 Session. Although DPOR recommended and sought repeal of the SLSA, the General Assembly took action to repeal only the statutory provisions concerning regulation of sales of lots in communities subject to the SLSA. The General Assembly left intact and in effect the SLSA provisions concerning association operations.

The Subcommittee agreed that the relevance of the SLSA to the Property Owners' Association Act is unclear. Accordingly, the Subcommittee recommended that the Commission consider legislation to incorporate the provisions of the SLSA concerning association operations into the POA Act and repeal the balance of the SLSA. Protection for purchasers of lots in recreational land developments which are not covered under the POA Act would remain under the federal Interstate Land Sales Full Disclosure Act, administered by the U. S. Department of Housing and Urban Development. However, the Subcommittee recommended that any such legislation initiated assure that the POA Act apply to recreational land developments or other communities which do not now come within such Act. The Virginia Housing Study Commission unanimously adopted all recommendations of the Subcommittee.³

³The Commission and its Executive Director express sincere appreciation to Maria J. K. Everett, Senior Attorney, Virginia Division of Legislative Services, for her assistance in this study.



DELEGATE FRANKLIN P. HALL

HOUSE JOINT RESOLUTION 161: PRESERVATION OF AFFORDABLE HOUSING

BACKGROUND

House Joint Resolution 161, patroned by Delegate James M. Scott, requests the Virginia Housing Study Commission to study options for developing policies and programs to preserve the current stock of low- and moderate-income housing and to utilize conventional and subsidized financing strategies for converting and creating new housing in the Commonwealth. Commission Chairman Alan A. Diamonstein appointed a Subcommittee, chaired by Delegate Scott and comprised of key leaders of the public, private, and nonprofit housing industry sectors, to respond to the Resolution.

The Subcommittee conducted its deliberations in the context of potential dramatic change in federal housing policy and with the presumption of the importance of planning for — rather than simply reacting to — such change. The study was structured around three major issues: restructuring of the HUD portfolio, restructuring of certain HUD policies and programs, and ongoing financing challenges facing the Commonwealth as it seeks to ensure adequate safe, decent affordable housing.

OVERVIEW OF FEDERAL HOUSING ISSUES

As part of the Subcommittee's first meeting, members voiced perspectives on critical federal housing issues and their implications for the Commonwealth. Included were the following statements and observations:

PUBLIC HOUSING

- Federal regulations requiring public housing to serve “the poorest of the poor” have been suspended, potentially fostering a wider income mix in projects while reducing the number of project units available to the very poor.
- It is anticipated that several hundred public housing units in various Virginia communities may be demolished in the next three to five years, at a time when the federal one-for-one replacement rule has been substantially eased. The relatively few new units being constructed tend to be housing targeted for home ownership opportunities, rather than “replacement” units. The decrease in units resulting from demolition is compounded by neighborhood opposition to new units, limited urban land available for development, and lack of federal funds for replacement units.
- Administrative fees could be frozen or reduced by the federal government, resulting in reduced allocations for local public housing administration.
- “Vouchering out” is being promoted at the federal level as an alternative to public housing projects, with an accompanying conversion of assistance to tenants shifting from site-based to tenant-based. Ostensibly, local public housing authorities (PHAs) could be placed in a situation of competing with the private market for tenants receiving rental assistance.

- There is no comprehensive statewide data available for the following critical information: an inventory of local public housing units currently in place and/or scheduled to be phased out in the next five to ten years; an inventory of § 8 certificates and vouchers administered by local public housing authorities; and an inventory of § 8 project-based assistance available through PHAs under the Moderate Rehabilitation Program. This lack of information renders incomplete any attempted inventory of assisted housing at the local level. Correspondingly, there is no comprehensive data on the numbers of persons potentially affected by federal housing changes.

ASSISTED HOUSING

- While HUD's annual budget authority has declined precipitously — from \$53.9 billion in FY75 to \$19.1 billion in FY96 — the number of households receiving federal assistance has continued to increase. The confluence of these trends results in a significant gap between anticipated requisite federal outlays (nearly \$30 billion) and HUD's recent budget levels.
- To address this impending deficit, HUD proposes to reduce the overall inventory of federally assisted rental housing. "Troubled projects" will likely be removed from the inventory via property disposition programs, and HUD is currently moving aggressively to foreclose on mortgages in default and to dispose of troubled HUD-held properties, including some in Virginia. High quality rental properties in strong markets will likely be lost from the inventory as their owners prepay their subsidized mortgages or opt out of their rental subsidy contracts. Earlier this year Congress reinstated the rights of owners of federally subsidized units to prepay their mortgages, and such prepayments are now taking place in Virginia. Most tenants displaced from troubled projects or projects whose owners have prepaid or opted out are being assisted for the short-term with tenant-based rental assistance.
- Well-managed projects in good condition which can be preserved at or below market level rents are expected to be retained in the federally subsidized inventory, although mortgage restructuring—designed to reduce rents (and thereby to reduce subsidies) through the so-called "mark to market" approach—will likely take place with some such projects. Congress will consider "restructuring" legislation in 1997 with action likely prior to October (the beginning of federal FY98). Even where mortgages are restructured and projects remain in the federally assisted inventory, rental assistance contracts will be written for shorter periods of time and tenants (except the elderly and disabled) are not guaranteed long-term residency in assisted units. (Many current tenants have lived in assisted units for twenty years or longer.)
- In an effort to preserve in the affordable inventory § 236 and § 221(d)(3) properties facing prepayments and opt-outs, Congress enacted the Low Income Housing Preservation and Resident Homeownership Act (LIHPRHA) in 1990, with capitalization available in 1992. More specifically, LIHPRHA was designed to regulate prepayments, provide incentives for preserving the affordable inventory, and promote tenants and nonprofits as priority purchasers of properties facing an exit from the inventory. Funding for LIHPRHA, however, falls substantially below demand; while an estimated \$2-3 billion is necessary to meet related preservation needs nationally, the program is currently receiving funding at levels below \$500,000. Units not funded for preservation under LIHPRHA likely will be lost from the assisted inventory.

- VHDA has gathered and analyzed substantial and comprehensive data relating to assisted projects in the Commonwealth and the number of units and tenants of such projects potentially affected by changes in federal assisted housing policy, specifically, § 236, § 221(d)(3), § 202, § 515, VHDA-administered § 8, FHA-insured § 8, and HUD troubled properties. While this data, together with related property and market condition information, provides some clues as to which owners may prepay or opt out, which properties may require mortgage restructuring, or which properties may be disposed of by HUD, it is obviously impossible to predict with certainty the eventual outcome of multiple scenarios.
- Following is information provided by VHDA relating to potential project prepayments/opt-outs, debt/rent restructurings, and HUD disposition of Virginia projects.

As of November 1996, owners of 92 § 236 and § 221(d)(3) projects containing 11,530 units have authority to *prepay mortgages*. Owners of ten projects with 1,699 units have prepaid or filed notices with HUD of their intention to prepay. In addition, VHDA is aware of owners of 11 projects with 1,754 units who have informally expressed an intent to prepay. (Projects and their locations are identified in the chart on page 22).

Information is not yet available as to the number of projects (and units) eligible for *debt and rent subsidy restructuring*. Much uncertainty exists as to the federal requirements that will be imposed pursuant to the number of mortgages for which restructuring will be required. An initial demonstration program requires restructuring of FHA-insured § 8 projects with expiring contracts with rents exceeding 120 percent of HUD Fair Market Rents. VHDA indicates that currently two such projects — one in Bluefield and one in Farmville — containing a total of 188 units are eligible for restructuring in FY97 under the “dispo demo” program. Eleven additional such projects containing 1,051 units will be eligible for restructuring in the next five to ten years.

VHDA suggests that 86 § 221(d)(3) market rate properties and § 221(d)(4) properties with § 8 Loan Management Set Aside subsidies and § 8 New Construction/Substantial Rehabilitation subsidies have the highest probability of restructuring eligibility, based on their probable above-market rents stemming from lack of deep mortgage subsidies. These 86 projects contain 12,631 units.

As of July 1, 1996, HUD held 32 Virginia projects containing 2,197 units in its own portfolio. In FY96, of these projects, HUD disposed of six, containing 1,588 units. Of this number, 732 units remain. As noted, HUD has moved aggressively to *dispose of troubled projects* in its portfolio.

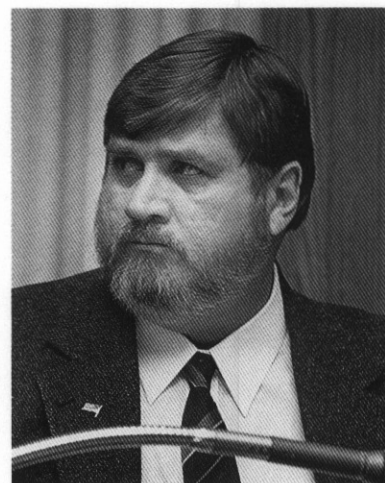
Following an overview of federal housing issues, an update on federal policy directions, and assessments of implications for housing in the Commonwealth, general discussion continued within a broad framework of identifying critical study issues, prioritizing the same, and determining legislation — if any — that would appropriately be introduced in the 1997 General Assembly Session. Prior to adjournment, four Subcommittee task forces were established to discuss housing preservation in the following contexts: nonprofit housing, private sector housing, public sector housing, and rural housing.

EVOLVING TRENDS

In the intervening time between the first and second meetings of the Subcommittee, Congress adjourned without passing the sweeping housing legislation that had been anticipated as late as mid-summer; some housing legislation is currently expected in mid-late 1997. In the meantime, the housing industry is left with another in an apparent series of continuing resolutions that effectively serves to compound uncertainty relating to federal housing programs, including rental subsidies and public housing in general.

At the Subcommittee's second meeting, reports were presented on the deliberations of the four Subcommittee task forces. These reports included general observations, ongoing study issues, and recommendations for 1997. Several themes emerged from the collective task force discussions:

- The Commonwealth — and the Virginia Housing Study Commission in particular — should play a leading role in the coming years in addressing the preservation of affordable housing stock.
- Federal housing subsidies that will be lost far exceed the state's ability to replace these dollars, and therefore other strategies are required to help offset these losses.
- Early and ongoing dialogue and partnerships among federal, state, and local governments, the private sector, nonprofits, and PHAs are critical in addressing affordable housing preservation.
- Affordable rental housing remains much needed in urban, suburban, and rural locales. Localities and regions should be provided information regarding potential losses of affordable units and the ramifications involved, and encouraged to examine the issues closely.
- It is crucial to identify, as nearly as possible, the location and extent of the affordable inventory that is likely to be lost as private owners prepay mortgages and opt out of subsidy contracts, as mortgages and rents are restructured, as HUD disposes of troubled properties, and as local PHAs demolish older units. Tenant displacement resulting from these factors and from potential effects of welfare reform and changes in income mix in public housing are a significant concern.
- There will likely be an impact on all players having a relationship with federally subsidized housing as federal assistance decreases in the coming years. Tenants will face uncertainty, and some will be forced to relocate. Private sector owners financially capable of doing so will likely prepay or opt out of the subsidy programs as assistance decreases. Private sector owners as well as nonprofits seeking to retain subsidies will face uncertainty resulting from decreases in market rents to the fortieth percentile, with possible attendant long-term property maintenance implications. Localities in which assisted properties are located — including some localities which are increasingly unreceptive to low-income residents — will also face uncertainty as tenants are forced to compete for affordable housing in an already inadequate marketplace. Finally, VHDA, PHAs, and nonprofits will likely play an even more substantive role in assisted housing programs as restructuring moves forward at the federal level.



DELEGATE JACKIE T. STUMP

TERMINATIONS OF PROJECT-BASED SUBSIDIES¹

PROJECT			SUBSIDY TERMINATION	
Name	Project Location	Total Units	Reason for Termination	
			Section 236 & 221(d)(3) Subsidies	Section 8 Project-Based Subsidies
Lakeview Townhouses I Manassas Park Village Coverstone Woodbridge (VHDA)	Northern Virginia			
	Fairfax County	147	Prepayment	Opt-Out
	Manassas Park	166	Prepayment	Opt-Out
	Prince William County	204	Prepayment	na
Newsome Park Newsome Park South Woodsong I Woodsong II Oakmont North I Oakmont North II Oakmont North III	Prince William County	209	Prepayment	na
		726		
	Tidewater			
	Newport News	400	Prepayment (1989) ²	na
	Newport News	250	Prepayment	na
	Newport News	208	Property Disposition	Property Disposition
	Newport News	272	Property Disposition	Property Disposition
	Norfolk	216	Property Disposition	Property Disposition
	Norfolk	96	Property Disposition	Property Disposition
	Norfolk	144	Property Disposition	Property Disposition
		1,586		
	Richmond/Petersburg			
Laketree Manor Park Lee Gardens Dupont Gardens Jefferson Village Town & Country I Town & Country II	Chesterfield County	50	Prepayment	na
	Chesterfield County	424	na	Property Disposition
	Hopewell	64	Property Disposition	Property Disposition
	Richmond	376	na	Property Disposition
	Richmond	202	Prepayment	na
	Richmond	176	Prepayment	na
		1,292		
	Shenandoah Valley			
Willow Springs Winchester Gardens	Rockbridge County	96	Prepayment	na
	Winchester	199	Prepayment	na
		295		
Prepayments		2,099 ²		
Property Dispositions		1,800		
Total Subsidy Terminations		3,899		

¹The owners of the projects included in this chart have filed notice with HUD to prepay/opt-out or have a HUD-approved property disposition plan as of November 1996.

²The Newsome Park mortgage was prepaid in 1989 prior to the effective date of the initial federal housing preservation program.

Information courtesy of VHDA, November 1996.

- Certain housing preservation resources and strategies are not necessarily being fully utilized in the Commonwealth. For instance, while some PHAs are creatively using multiple financing methods, other localities could better utilize such programs as the HUD CDBG § 108 Loan Guarantee Program, which enables communities to leverage their CDBG programs into larger resources for activities not readily financed through grants. The HUD "Compendium of Best Practices" provides information on related activities in other jurisdictions.

RECOMMENDATIONS

Based on information presented and trends identified, the Virginia Housing Study Commission unanimously adopted all of the Subcommittee's unanimous recommendations, as follows:

- Allocate general funds to the Virginia Housing Partnership Fund multifamily loan program. No funds are provided for this program in the state budget for FY98.
- Introduce a legislative resolution requesting Congress to continue the Low Income Housing Tax Credit Program. This program, which has proven to be among the most effective multifamily housing development incentives, appears again to be in danger of facing a federal sunset.
- Request that the Department of Housing and Community Development (DHCD) consider establishing a state rural rental rehabilitation program, similar to the popular but now defunct federal program of the same name, to address the need for affordable rental housing in rural areas.
- Request DHCD to address the preservation issues discussed above in the state Consolidated Plan prepared by DHCD for submission to HUD.
- Introduce a legislative resolution requesting the Commission and its Subcommittee on HJR 181 to continue its dialogue, monitoring, and study, the accomplishments of which to date include: bringing together key players in government and the housing industry and initiating a dialogue on complex issues of interest and concern individually and collectively; identifying major issues and perspectives that should be monitored and, in some cases, studied by the Commonwealth, local governments, and housing advocates in the coming year; and identifying concrete recommendations for 1997 and beyond.⁴

⁴The Commission and its Executive Director express sincere appreciation to Dr. C. Theodore Koebel, Director, Virginia Tech Center for Housing Research, and Mr. Barry Merchant, Program Development Director, Virginia Housing Development Authority, for their assistance in this study.

HOUSE JOINT RESOLUTION 181: HOMELESS CHILDREN

BACKGROUND

House Joint Resolution 181, patroned by Delegate Jerrauld C. Jones, requests the Virginia Housing Study Commission and the Virginia Commission on Youth to study the prevalence and needs of homeless children in the Commonwealth. The Resolution further directs the Commissions to identify barriers to providing services to Virginia's homeless children and to recommend strategies for improving their lives.

Study research and analysis included the following:

- appointing and convening a Subcommittee comprised of individuals with varied perspectives and expertise in such issues as shelters, runaway situations, education, coordinated social services, domestic violence, health care, the faith community, local government, housing, and personal empowerment from a background of personal homelessness
- review of literature addressing the causes and impact of homelessness on children
- review of state and federal programs and funding sources designed to address and prevent homelessness
- meetings with representatives of national, state, and regional organizations focusing on homelessness
- convening of Housing Study Commission and Youth Commission regional public hearings to receive testimony on the subject
- briefing of Housing Study Commission and Youth Commission legislative members and staff by recognized national, state, and local advocates and service providers for homeless persons.

A complete report on the joint study will be provided in House Document 37 (1997). Following is a brief summary of the study, including background information and recommendations.

DEFINITION OF HOMELESSNESS

In response to House Joint Resolution 163 (1992), the Virginia Housing Study Commission issued an interim report in 1992 followed by a final study report in 1993 on homelessness in Virginia. In its reports, the Commission addressed the history, causes, and magnitude of the problem, its impact on Virginia's citizens, and alternatives and solutions.

The Commission in 1992 observed that "homelessness is a personal and societal tragedy that is not readily observed or identifiable." The Commission pointed out that while many assume that homelessness is experienced only by people seen "on the street," many of those experiencing homelessness in the Commonwealth are not living in parks or in abandoned buildings. While persons living on the street are usually single males, those living in shelters or staying temporarily with friends or relatives tend to be working families with children. For purposes of the HJR 181 study, homeless

children are defined as those “under the age of eighteen who are voluntarily or involuntarily without a permanent, regular, fixed and adequate nighttime residence.”

MAGNITUDE OF THE PROBLEM

The Commission’s observation in its 1992 Annual Report regarding numbers of homeless persons in the Commonwealth remains true today: “The homeless can be counted and profiled with any degree of accuracy only when they seek housing in a shelter.” A count of sheltered homeless children does not include those temporarily housed with family or friends, or turned away from shelters for lack of space, unacceptable behavior, or shelter policies. The Commission in turn suggested that “more complete documentation of the numbers and characteristics of Virginia’s homeless population will result in better ability to meet their needs.”

For FY 1996, shelters funded by the Virginia Department of Housing and Community Development (DHCD) reported sheltering 22,007 homeless persons, of whom 5,978 — about 27 percent — were children under age eighteen. While another 21,592 persons were turned away for lack of space, it is impossible to know how many such turnaways were children. For FY 1991, 29,196 persons were sheltered in facilities receiving allocations through DHCD; another 22,666 were turned away for lack of space.

According to the Virginia Coalition for the Homeless, the number of children served by homeless shelters decreased from a high of approximately 20,000 in calendar year 1990 to 15,789 in CY 1995. A total of 9,995 children were served by domestic violence programs, of whom 3,742 were housed in shelters and 132 lived in transitional housing. (While some of the children counted in the domestic violence shelter survey were also counted in the Coalition survey, it is not possible accurately to reconcile the two data sources.) In addition, records of Virginia localities indicate that 6,888 adolescents were arrested for running away in 1995 — a 70 percent increase since 1990.

There are several possible explanations for the decreases reflected in the DHCD and Coalition data. Improved data collection methods may result in less duplication in counts of sheltered persons and those turned away, resulting in lower shelter statistics in recent years. In addition, persons sheltered are staying longer in shelters themselves as well as in transitional facilities, resulting in fewer numbers of total persons sheltered. Also, the growing availability of domestic violence shelters may result in more homeless parents with children seeking services through such shelters. Finally, there is an optimistic interpretation: that as the myriad programs aimed at preventing homelessness foster the ability of service providers to respond more comprehensively, there may be a decrease in the chronically homeless population. In other words, the programs may be succeeding in preventing and addressing homelessness.

CAUSES OF HOMELESSNESS

In its 1992 Annual Report, the Commission noted:

The emergence of homelessness as a major social problem represents the confluence of several significant developments during the 1980s. These developments include but are not limited to ... loss of affordable



DELEGATE WILLIAM C. MIMS

housing..., real estate inflation, decreases in earned income, erosion of public benefits, failures of funding of our community-based mental health system, and more widespread substance abuse. Consideration of all of these causal factors is imperative in developing an effective response to the problem of homelessness and suggests that initiatives directed to only one set of factors, such as a lack of affordable housing, will not solve the problem.

The affordable housing component of homelessness is compounded today by anticipated dramatic decreases in federal funding for housing programs and changes in federal housing policy. In addition to the other components cited by the Commission in 1992, the HJR 181 Subcommittee also points to unemployment, domestic violence, family dysfunction, and natural disasters as causes of homelessness.

IMPACT OF HOMELESSNESS ON CHILDREN

Today, families are the fastest growing segment of the homeless population. The National Urban Institute estimates that there are 1.2 million homeless children in the nation; the U.S. Department of Education estimates that there are 750,000 school-aged homeless children. Of those children who are the sad statistics, some are accompanied by their parents; others are unaccompanied — runaways or “throw-aways,” literally forced out of their home or abandoned by their families.

Homeless children are characterized by malnutrition, poor health, and physical, emotional, and social developmental delays. Many experience learning difficulties and academic problems, and are inclined toward severe anxiety and depression. In addition, they are at risk for physical and emotional abuse from their parents, a risk which is particularly high during the stressful experience of homelessness.

More specifically, homeless children experience a high incidence of ear and respiratory infections; sleep disruptions; and developmental delays in speech, language, and gross and fine motor skills. These challenges are compounded further by gaps in education. In sum, homeless children lose their childhood — pets, playmates, playtime, belongings, privacy, family rituals, the status of living in their own home, a sense of belonging and trust and certainty — in the time that they are homeless.

RECOMMENDATIONS

Following are recommendations of the HJR 181 Subcommittee to the Virginia Housing Study Commission and the Virginia Commission on Youth. Of the nearly thirty such strategies for addressing the condition and needs of homeless children, the Subcommittee identified ten as priority recommendations. The Housing Study Commission in turn unanimously adopted in principle all of the Subcommittee recommendations.

IMPROVE SERVICE DELIVERY FOR HOMELESS CHILDREN

At least thirteen federal programs — administered by six federal and five state agencies — currently provide assistance for the homeless in Virginia. At the state level of administration, there is limited communication among the administering agencies with regard to planning for the allocation of funds; there is no comprehensive system-wide coordination to track comprehensively the number of homeless families served, dollars allocated, services provided, or outcome of the episodes of homelessness. At the local level, in some cases localities seek homeless program funding without full awareness of the potential funding sources available. The lack of information sharing, collaborative planning, and analysis do not serve to foster service delivery for the currently homeless or, in the long run, prevent homelessness.

Even as new federal funding devolves to the Commonwealth (or current federal programs are reduced or eliminated), state interagency planning to address the needs of homeless and potentially homeless families and children does not routinely take place. Currently, the focus of most shelter services is directed to adults in response to their housing, employment, legal, and life skills needs. Homeless children — who are more likely to suffer greater physical, psychological, and educational challenges than their counterparts who are not homeless — are generally not receiving those services (including day care, medical attention, counseling, and education-related assistance) requisite to lessen the impact of homelessness.

Unaccompanied minors who are homeless often face complex and immediate concerns. In addition to being subject to arrest, their risk of victimization on the street increases by 75 percent after the first 48 hours, according to national research. Although runaways may be fleeing abuse at home (or may have been “thrown away” by parents or guardians) and likely have few if any positive attachments in school or the larger community, only two shelters in the Commonwealth serve unaccompanied minors lacking a formal public agency referral. Within the at-risk group of homeless minors are those with even more specific needs: those who are pregnant or are, themselves, mothers. To date, the needs of unaccompanied homeless children are not being met; that situation must be reversed in order to prevent multigenerational homelessness.

In its 1993 Annual Report, the Virginia Housing Study Commission called for “excellent coordination among Virginia state agencies that serve the homeless and those at risk of homelessness.” The Commission pointed to the Virginia Interagency Action Council for the Homeless (VIACH) — an informal group of public and private entities addressing homelessness — as a logical coordinating organization. Five states now have statutorily established interagency councils to address the challenge of coordinating planning and funding to assist the homeless and prevent homelessness.

IN SUM, HOMELESS
CHILDREN LOSE THEIR
CHILDHOOD — PETS,
PLAYMATES, PLAYTIME,
BELONGINGS, PRIVACY, A
SENSE OF BELONGING AND
TRUST AND CERTAINTY —
IN THE TIME THAT THEY
ARE HOMELESS.



COMMISSIONER TRACEY S.
DEBOISSIERE

PRIORITY RECOMMENDATION ONE

Codify the role of the Virginia Interagency Action Council for the Homeless (VIACH) to coordinate program development and delivery of essential services to the homeless.

PRIORITY RECOMMENDATION TWO

Establish a staff position designated to provide case management and direct services to children at every homeless and domestic violence shelter in Virginia which serves minor children.

PRIORITY RECOMMENDATION THREE

Request the Departments of Social Services and Juvenile Justice to assess the need for shelter beds to serve homeless unaccompanied minors.

ADDITIONAL RECOMMENDATIONS

- Request the Department of Health to coordinate with the Departments of Social Services and Criminal Justice Services to insure the accessibility of sexual assault services to minors.
- Request the Department of Housing and Community Development to provide training on collaborative approaches to serving the homeless.

ADDRESS THE EDUCATIONAL NEEDS OF HOMELESS CHILDREN

Homeless children often suffer educational interruptions directly related to residency and transportation issues. For the safety of sheltered children and their families, the majority of domestic violence shelters do not arrange for school age children to attend school locally. Homeless shelters routinely lack the staff resources to facilitate local school enrollment of the children they shelter. School registration requirements, including copies of immunization records, school records, and verification of residency, often pose what are effectively insurmountable barriers to school enrollment. Currently, fourteen of Virginia's 134 school districts receive funds to facilitate enrollment of homeless children in school as required by federal law. These programs served less than fifteen percent of Virginia's homeless school-age children last year.

In addition to public schooling, many pre-school age children have inadequate care while their parents seek or maintain employment. Developmental delays experienced by many homeless children remain undetected in the pre-school years and present additional educational challenges. Few shelters are able to offer supervised day care and day care services are unavailable to many homeless parents whose frequent moves limit their ability to access Headstart programs.

PRIORITY RECOMMENDATION FOUR

Provide General Fund support to homeless education programs to offset reductions in federal funds.

PRIORITY RECOMMENDATION FIVE

Increase funding for child day care for the homeless under the Child Care Block Grant.

PRIORITY RECOMMENDATION SIX

Expand availability of Headstart in Virginia and reserve slots for children residing in homeless shelters.

PRIORITY RECOMMENDATION SEVEN

Amend *Code of Virginia* § 22.1-3.1 relating to birth certificates and § 22.1-271.2 relating to immunization requirements to facilitate the enrollment of homeless children in local schools.

ADDITIONAL RECOMMENDATION

Include homeless and domestic violence shelters in the Virginia codified definition of *in loco parentis* to foster enrollment of homeless children in local schools and to enable shelters to serve unemancipated minors.

RESPOND TO THE HEALTH NEEDS OF HOMELESS CHILDREN

Homeless families tend to access the health care system as a last resort at a time when the presenting complaint is of a serious or an acute nature, and preventive health and dental care are not routinely practiced. Childhood immunization records are often incomplete, while the shelter environment poses increased risk of transmission of minor illnesses and communicable diseases. Moreover, the provision of nutritionally balanced meals is difficult in shelter and feeding program settings dependent upon donations. Medical care needs of homeless unaccompanied adolescents — including pregnancy and sexually transmitted diseases, as well as trauma related to physical vulnerability — are directly related to life on the streets. While some shelters have developed mechanisms to bring public health services to their clients, such services are the exception rather than the rule in Virginia.

PRIORITY RECOMMENDATION EIGHT

Establish a Public Health/Shelter Partnership pilot program.

ADDITIONAL RECOMMENDATION

Develop a statewide Child Immunization Tracking System.

PREVENT CHILD HOMELESSNESS

Poverty and homelessness are inextricably linked; minimum wage earnings and/or welfare benefits are insufficient in many Virginia communities to meet the cost of living. Meanwhile, despite increased federal and state allocations for housing and homeless

programs during the past decade, demand for affordable housing continues to outpace supply. Virginia's Homeless Intervention Program, which provides mortgage and rent assistance to prevent foreclosure or eviction, has been highly effective and is nationally recognized. However, financial support from the federal government to maintain families in their homes using emergency assistance has been reduced as a result of Federal Emergency Management Act (FEMA) budget reductions. Curtailment of federal housing rental subsidy programs and changes in public housing regulations may also lead to inability of families to remain in housing where rents will increase to market rates. Certain tax credit programs may prove helpful in offsetting reduced federal housing allocations and preventing additional homelessness.

Adolescents who run away from home are unprepared to live successfully independently, and face even greater challenges than do homeless adults. Many youths run away as a result of violence or abuse in their homes as well as other conflicts in the family. Some families push their adolescents out of the home in response to conflicts, financial strain, or other interpersonal crises. Programs which address family stress prior to such tension reaching a crisis and which prepare teens for successful independence can be effective approaches to preventing homelessness.

PRIORITY RECOMMENDATION NINE

Re-establish Virginia's Rent Reduction Tax Credit Program and amend eligibility to include low-income families.

PRIORITY RECOMMENDATION TEN

Enact the Virginia Earned Income Tax Credit.

ADDITIONAL RECOMMENDATIONS

- Request the Department of Education to study the feasibility of providing mandatory life skills training in secondary schools.
- Increase General Fund support for additional respite care programs for adolescents.
- Expand funds available through Family Violence Prevention Grants for child abuse prevention programs.
- Expand independent living programs for youth exiting foster care.
- Mandate foster parent training.
- Provide General Funds to local human service agencies to offset FEMA budget reductions.
- Request a legislative study on the establishment of community banks and credit unions that could make available small loans to low-income families.

STRENGTHEN TRANSITIONAL SERVICES FOR HOMELESS FAMILIES

For homeless families, the road to stable housing and employment is an arduous one. Lengths of stays in shelters increased an average of two weeks from 1994 to 1995, partially due to the lack of transitional bed space. Waiting lists and restrictions on the number of children who can be housed in transitional programs limit the number of homeless families who can be assisted.

Securing and maintaining the employment which in turn fosters economic self-sufficiency can prove a tremendous challenge for those seeking the transition into permanent housing. Many homeless parents and adolescents have few job skills, and the job skills they have are often suitable for low paying jobs without medical benefits — situations which serve to continue their precarious living arrangements. For those who can secure housing and full-time employment at a livable wage, there remains the challenge of amassing necessary security deposits and passing credit assessments prior to securing permanent housing.

RECOMMENDATIONS

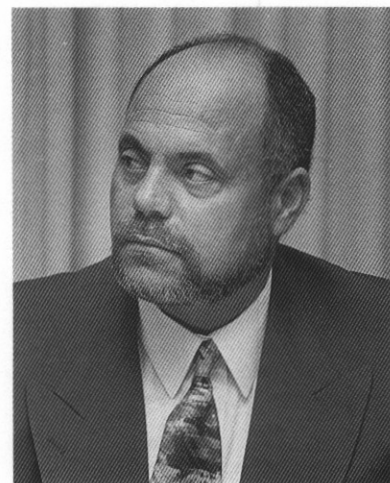
- Establish a tax incentive for employers to hire the homeless.
- Request the Department of Social Services to establish non-traditional jobs training.
- Request a legislative study to review credit rating assessments for the homeless moving from transitional to permanent housing.

IMPROVE SHELTER CARE SERVICES TO THE HOMELESS

The Commonwealth currently contributes about four percent to the operating costs of emergency and transitional shelters. State funding for shelters has not increased for four years. Many shelters are in need of facility repair and/or expansion as well as additional personnel to address the diverse and complex needs of the homeless. Clearly, homeless children cannot receive the services they so urgently need if shelters are unavailable to assist them and their parents.

RECOMMENDATIONS

- Increase General Fund support for additional shelter beds, facility repairs, and supportive services.
- Restore the Virginia Income Tax Check-Off Program targeted for the homeless, the elderly, and the disabled.



COMMISSIONER WALTER J.
PARKER

ASSESS THE IMPACT OF CERTAIN FEDERAL POLICIES ON VIRGINIA FAMILIES

It is difficult at this time to assess the potential impact of federal welfare reform on Virginia's families. However, if implementation of such policies increases poverty rates, there will likely also be an increase of homeless families. As the Commonwealth develops and implements its plans to comply with federal law, the specific impact on children with respect to homelessness should be monitored and assessed. Advocates also suggest that certain federal housing policies, implemented with the intent to improve the safety of public housing tenants, will potentially increase the number of homeless children.

RECOMMENDATIONS

- Request the Secretary of Health and Human Services to identify the impact of fiscal reductions in Supplemental Security Income (SSI) and of welfare reform on children.
- Request Virginia field offices of the U.S. Department of Housing and Urban Development (HUD) to assess the impact of the "one strike" federal eviction policy on children whose families are evicted.

SENATE BILL 520:

COMMON INTEREST COMMUNITY MANAGEMENT INFORMATION FUND

BACKGROUND

The Virginia Housing Study Commission conducted a comprehensive study of condominium associations in 1991-92 which ultimately resulted in the passage of several important pieces of legislation, including the establishment of the Common Interest Community Management Information Fund ("the Fund"). The Commission Subcommittee studying the issue was chaired by Delegate James F. Almand. Subcommittee members included nationally recognized practitioners in the area of common interest communities.

The Commission agreed with its Subcommittee that governmental involvement in the relationship between individual unit owners and association boards of directors is neither appropriate nor feasible. The Subcommittee and the Commission did, however, recognize a need for providing further information and, additionally, for promoting improved and more efficient operation of common interest communities through research and education. [For purposes of this discussion, common interest communities include condominiums, real estate developments governed by property owners' associations, and real estate cooperatives.]

Hence, the Fund was created, at the recommendation of the Commission and by the 1993 General Assembly, to serve as a central clearinghouse for information about and for common interest ownership community associations. Revenues to administer the Fund — governed by the Real Estate Board and staffed by the Department of Professional and Occupational Regulation (DPOR) — are generated by modest fees submitted by associations in conjunction with their requisite filing of an annual report. Such report must include the name and address of a registered agent for the association together with an annual financial statement.

During the 1996 Assembly Session, DPOR sought to repeal the Fund via Senate Bill 520, patroned by Senator Emmett W. Hanger, Jr. In so doing, the agency cited the following:

- About half of the associations covered under the Fund (approximately 1,200) have never filed the requisite annual report with the Real Estate Board and there is no enforcement mechanism in the law to ensure compliance.
- Annual report filing fees, currently set at \$25.00 per annum, have generated only about half of the anticipated \$60,000 per annum revenues that would be used by DPOR to implement the informational component of the Fund. Again, there is no enforcement mechanism to ensure filing fee compliance.

Following discussion, the House Committee on General Laws accepted the recommendation of its Subcommittee to carry over SB 520 and send it to the Commission for study.



COMMISSION EXECUTIVE
DIRECTOR NANCY M. AMBLER

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At the request of Commission Chairman Alan A. Diamonstein, Delegate Almand agreed to lead the Commission's study of SB 520. Subcommittee members, most of whom had participated in lengthy deliberations pursuant to the Commission's 1991-92 condominium association study, noted that the Fund had been created in response to well-documented concerns of and regarding associations. They agreed that the Fund has been in existence for too brief a period of time adequately to assess its effectiveness. Rather than immediately repeal statutory provisions for the Fund, Subcommittee members agreed, it would be more appropriate to assess current strengths and weaknesses in the Fund and reasons for the same. Further, they agreed that, where appropriate, recommendations should be made to the Commission to build on the strengths of the Fund and to implement strategies to address its weaknesses, real and perceived. Although DPOR staff favored a 1999 sunset for Virginia *Code* sections relating to the Fund, other Subcommittee members unanimously opposed such a measure.

RECOMMENDATIONS

Following are specific Subcommittee observations and recommendations, all of which were unanimously adopted by the Virginia Housing Study Commission.

COMPLIANCE WITH FUND REQUIREMENTS

Compliance with Fund requirements by many community associations has been lackluster. Two reasons are cited:

- Some community associations are unaware of the requirements.
- Some community associations object to the requirements and are unaware of the Fund's background and potential benefits.

The Subcommittee recommends the following outreach strategies to encourage compliance by associations:

- Utilizing Virginia State Corporation Commission data, DPOR should compile a more complete list of community associations for use in disseminating information regarding the Fund.
- DPOR should contact management companies and law firms which specialize in representation of community associations to assist in identifying associations and encouraging compliance with the Fund annual report filing requirement. [DPOR has initiated activity in response to recommendations one and two, above.]
- DPOR and industry practitioners should work with and through the three Virginia chapters of the Community Associations Institute (a trade association) and other industry groups to publicize via magazine and newsletter articles the Fund annual report requirement.

The following statutory amendments to the *Virginia Code* are recommended to establish mechanisms for enforcement of the Fund annual report requirement:

- Amend § 55-530 relating to the Fund to require the Real Estate Board to issue to each association registered pursuant to Fund requirements a certificate of registration which includes a unique registration number assigned by the Board and the registration date.
- Amend § 55-79.97 relating to the Condominium Act to require an additional statement in the Certificate for Resale indicating that the unit owners' association has filed the requisite annual report and providing the association registration number and date.
- Amend § 55-512 relating to the Property Owners' Association Act to require an additional statement in the Association Disclosure Packet indicating that the association has filed the requisite annual report and providing the association registration number and date.

USE OF FUND PROCEEDS

The original limitations placed on the use of Fund proceeds, while addressing the needs of community associations at the time of enactment, are now recognized as overly restrictive. To serve more effectively the needs of associations, it is recommended that *Virginia Code* § 55-530 relating to the Fund be amended to expand Fund uses currently codified to include "seminars and educational programs designed to address topics of concern to community associations."

VIRGINIA'S LEADERSHIP ROLE

Traditionally, Virginia has led the nation — as it has in many areas relating to housing law and policy — in the field of common interest community law and policy. The Commonwealth's Condominium Act, for example, serves as a model for similar laws in numerous states as well as for the Uniform Condominium Act developed by the Uniform Commission on State Laws.

As the nature of housing law and policy in general and, for purposes of this discussion, community association issues changes dramatically, it is critical that Virginia continue in its leadership position in relationship to these issues. An aging resident population (many of whom live with limited fixed incomes) of common interest communities coupled with aging units and community infrastructure (some lacking in adequate recommended reserve funds) are but two of the complex issues facing the industry in the coming years. To address these changes, to better serve associations and their members, and to continue Virginia's traditional national leadership role in the field of community association law and policy, the following strategies are recommended to foster ongoing support from legislative leaders, regulatory officials, and industry practitioners:

- Request by legislative resolution that the Real Estate Board seek information on trends and issues in community association administration and operation from regulatory officials and industry leaders.

- Request by legislative resolution that the Real Estate Board establish an advisory committee to oversee administration of the Fund to ensure that revenue proceeds are used for the benefit of community associations and their members.
- Request that the Commission Chairman establish a Commission standing subcommittee to address annually or biannually community association trends and issues, including proposals for legislative changes and further ways in which community associations can address the dynamic housing challenges facing the Commonwealth.⁵

⁵The Commission and its Executive Director express sincere appreciation to Lucia Anna Trigiani, Attorney at Law, Mays & Valentine, for her assistance in this study.

REGULATION OF AIR CONDITIONING IN RESIDENTIAL RENTAL UNITS

BACKGROUND

At the request of the Alexandria legislative delegation, Commission Chairman Alan A. Diamonstein placed the issue of state regulation of air conditioning in residential rental units on the Commission 1996 study agenda. More specifically, the issue involves the desirability and feasibility of implementing state regulations relating to temperature standards, equipment maintenance, and equipment replacement programs. The Chairman appointed a Commission Subcommittee comprised of City of Alexandria officials, members of the Alexandria Landlord-Tenant Relations Board, multifamily industry representatives, and others to study the issue.

SCOPE OF ISSUE

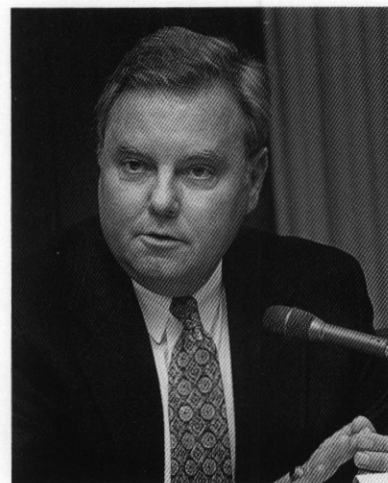
City officials noted that there are over 29,000 residential rental units in Alexandria, and that the locality has a greater percentage of its population residing in rental units than does a typical Virginia locality. (About forty-eight percent of the City's housing units are rental apartments.) The City also has a larger number of older multi-story rental apartment buildings than do other Virginia localities.

The City received 49 formal complaints in FY95 and 31 complaints in FY96 (excluding complaints registered at tenant meetings) regarding malfunctioning or non-functioning air conditioning systems and/or "high" utility bills. Such complaints were received from tenants residing in 32 complexes, including both garden-style and multi-story apartment buildings. In an attempt to gauge the statewide extent — if any — of local concerns regarding air conditioning systems, the City posed queries regarding the issue in a July edition of the Virginia Municipal League newsletter. No response was received from other localities.

CURRENT LAW

Under § 55-248.13 of the *Code of Virginia*, the Virginia Residential Landlord and Tenant Act provides that a landlord must "maintain in good and safe working order all...air conditioning...supplied...by him." Tenants have expressed frustration to City officials, however, that remedies under the Act are cumbersome and time-consuming, and do not necessarily result in expedited repairs of ailing air conditioning systems.

In addition, Volume II (Building Maintenance Code) of the Virginia Uniform Statewide Building Code (USBC) states that a building's "mechanical equipment . . . shall be properly installed and maintained in a safe working condition, and shall



COMMISSIONER F. GARY
GARCZYNSKI

be capable of performing the intended function.” The Code does not, however, specifically address air conditioning systems or temperature standards.

RECOMMENDATIONS

The Subcommittee noted that, typically, the Commission and the General Assembly do not favor legislating specific building code regulations. The Commission and the Assembly have traditionally taken a position that provides for a framework for regulation.

The Subcommittee observed that it is unclear whether the issue under consideration is locality-specific or statewide in its scope. Members also took note of the importance of educating tenants as to the complexities of temperature control (e.g., the potential difficulty in decreasing room temperature by greater than twenty degrees) and identifying the nature of any systemic or unit problem, ordering replacement parts, and actually installing such parts, particularly for older systems and units.

After discussing whether air conditioning regulations would be more appropriately and effectively promulgated under the USBC or the Landlord and Tenant Act, the Subcommittee agreed that the USBC would be the preferable vehicle for the same. Members also noted that the USBC currently includes temperature standards for heat.

Accordingly, the Virginia Housing Study Commission unanimously adopted the Subcommittee’s unanimous recommendation that the Board of Housing and Community Development consider the desirability and feasibility of providing air conditioning standards (in addition to the existing heating standards) under Volume II (Building Maintenance Code) of the Uniform Statewide Building Code as a part of the Board’s current revision of the USBC. In addition, the Commission will provide to the Board the City of Alexandria issue paper considered by the Subcommittee, and requests that the Board solicit other comment from the City and other Virginia local governments in its deliberation on the issue.

VIRGINIA HOUSING STUDY COMMISSION 1996 SUBCOMMITTEES

HOUSE BILL 625: BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

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HOUSE BILL 1251: DISSOLUTION OF REDEVELOPMENT AND HOUSING AUTHORITIES

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HOUSE JOINT RESOLUTION 8: REGULATION OF PROPERTY OWNERS' ASSOCIATIONS AND

SENATE BILL 520: COMMON INTEREST COMMUNITY MANAGEMENT INFORMATION FUND

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The Honorable Julia A. Connally
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The Honorable Brian J. Moran
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HOUSE JOINT RESOLUTION 161: PRESERVATION OF AFFORDABLE HOUSING

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